

THE COURTS AND PUBLIC HEALTH

These abstracts from the news sheets of the National Health Council are considered of interest to our members:

"It may be said that law is of two kinds—the written, embodying the expressed will of the legislative branch, and the unwritten, consisting mainly of the decisions of courts of last resort, which interpret and apply the written law. Since there are forty-eight State supreme courts or courts of appeals, principles of law vary considerably throughout the United States, though they are probably more in harmony on public health matters than many others. Decisions of the highest court of a State are binding on that State, and in the absence of decision in a similar case in another State, may be a precedent for the latter State court. The United States Supreme Court deals with matters arising under the Federal Constitution, which may have been appealed from State or lower Federal courts. In a few cases it has original jurisdiction, as in controversies between States.

The Federal Maternity and Infancy Act is before the U. S. Supreme Court. The petition of the commonwealth of Massachusetts to bring suit against Federal officials who administer the Maternity and Infancy Act (Sheppard-Towner law) as outlined in Statement No. 34, page 1, was granted by the U. S. Supreme Court on October 23, 1922. The return has been set for January 2, 1923, before which time the complaint must be answered. Future developments in this case will be followed in these reports. Copies of the reprint entitled "The Constitutionality of the Federal Maternity and Infancy Act," setting forth impartially both sides of the argument, may be obtained from the Washington office of the council.

Vaccination Regulation Upheld (Washington)

State ex rel. Lehman vs. Partlow et al., 205 Pac. 420. March 28, 1922. Facts. In accordance with instruction from the State Director of Health, the school authorities of Thurston County ordered all unvaccinated children to be vaccinated. Lehman refused to permit his daughter to be vaccinated. The facts were undisputed, as the case was argued on a demurrer, which was overruled in the lower court and appealed to the Supreme Court.

Holdings—The Supreme Court upheld the vaccination requirement as within the authority conferred by the statute on the State Director of Health.

Comment—Courts have quite generally upheld vaccination. In January, 1922, the Superior Court of Cook County, Ill., held that damages could not be recovered against the health commissioner for excluding unvaccinated children from school. This case, while interesting, is not an authority, as not coming from the highest court in the State.

Venereal Diseases

Two recent cases have dealt with this subject, though with somewhat conflicting results. In *ex parte Caselli*, 204 Pac. 364, a Montana case decided January 24, 1922, a woman affected with gonorrhea was held by the sheriff under an order of the health officer of the city of Missoula. She applied for a writ of habeas corpus (see No. 6 below) on the ground that she was not granted a judicial hearing before being detained. The court upheld her detention on the ground that it was justified under the police power.

In *Rock vs. Corney et al.*, 185 N. W. 798, a Michigan case decided December 21, 1921, a girl was examined, found to have gonorrhea and was placed in a hospital, the inspector of the State Board of Health refusing to permit her to be quarantined at home. The court held that this was an unlawful use of authority and the question whether

the refusal to quarantine her at home was unreasonable or not should have been presented as an issue of fact for the jury. The judgment was reversed in favor of the girl.

Habeas Corpus and Quarantine

Habeas corpus is a writ which inquires into the restraint of any person. When granted, the person detained is brought into court at once and given an opportunity to show why he should be released. In a number of recent cases it has been brought out that this is the proper procedure for a quarantined person who believes his detention is illegal. This point was particularly developed and sustained in *ex parte Caselli* cited above, and other cases.

Ascertaining the Splenic Index and the Mosquito Focus from Schoolchildren—Samuel T. Darling, Baltimore (Journal A. M. A., March 17, 1923), emphasizes that schoolchildren can be utilized by the epidemiologist and the health officer not only in estimating the amount of malaria in a community, but also, at times, in revealing the source of the anophelines responsible for their infection. In rural communities where malaria exists, the school should furnish an index of the amount of malaria present, because of the well known frequency of splenic enlargement in children in an endemic or epidemic region, and because the children are representative of the exposed group, temporarily segregated and readily accessible to the epidemiologist or to those interested in malaria control. In malarial infection there is a correspondence in time between the appearance of malarial plasmodia, the occurrence of fever, and the enlargement of the spleen. This takes place in new infections, in reinfections and in relapse. The splenic enlargement persists for some time after the subsidence of fever. In a few instances, malaria infection is not associated with splenic enlargement, as in some cases of acute and fatal pernicious malaria and in cases of superinfection. It is also true that, wherever malaria has caused splenic enlargement, the clinical history is usually sufficiently definite to permit the making of a diagnosis from the latter. Many epidemiologists, however, would welcome a method which would elicit information without the necessity of relying on the testimony of ignorant, overzealous or inco-operative persons. Darling reports the results of a survey of a Brazilian village. Sixty-six of 150 children had an enlarged spleen. In most instances the spleen was not greatly enlarged, being "palpable" or "one finger's breadth" in size. Blood specimens were not taken from every child, but only from representative age and sex groups. Half the children from whom blood specimens were taken had positive spleens. The plasmodium was nearly always that of tertian malaria. Of the fifty-seven children who lived in the lower half of the town toward the river, forty-two, or 73.7 per cent, had palpable spleens, while of the ninety-three children who lived in the upper part of the town and beyond, only twenty-four, or 25.8 per cent, had palpable spleens. This pointed unmistakably to the river margin as the principal if not the sole focus of the malaria in the locality, and it appeared to eliminate the stream which ran through the village, as well as any possible place farther away from the river, as being of any real importance in contributing to the malaria of the community. Many propagation areas were found in the low places between the river and the town, along the flood plain and in the borrow-pits and ditches near the tile works. Here larvae of *Anopheles argyritarsis*, *A. tarsimaculata* and *A. albimanus*, well known carriers of malaria, were found in great abundance. Fewer were found across the river. The larval survey confirmed the indications obtained from spleen examinations, since the propagation areas were found to coincide with the areas near the homes of the malaria-infected children.